

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF CONNECTICUT

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IN RE:	)	CASE NO.	03-32967(LMW)
	)		
RAYMOND J. SERRA and	)	CHAPTER	7
DELORES SERRA,	)		
	)	DOC. I.D. NO.	17
DEBTORS.	)		
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**APPEARANCES**

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Potential Creditors

**BRIEF MEMORANDUM AND ORDER  
DENYING MOTION TO ENLARGE TIME FOR NEWLY DISCOVERED  
CREDITORS TO FILE COMPLAINT PURSUANT TO 11 U.S.C. §§ 523 AND 727**

Lorraine Murphy Weil, United States Bankruptcy Judge

**WHEREAS**, the above-referenced debtors (the “Debtors”) commenced this chapter 7 case by petition filed on June 6, 2003;

**WHEREAS**, the last date for filing complaints for determinations of nondischargeability or objections to discharge<sup>1</sup> was September 15, 2003 (the “Bar Date”);

**WHEREAS**, the Debtors received their chapter 7 discharges on September 23, 2003;

**WHEREAS**, on December 16, 2004 the Debtors filed a Motion To Enlarge Time for Newly Discovered Creditors To File Complaint Pursuant to 11 U.S.C. §§ 523 and 727 (Doc. I.D. No. 17, the “Motion”);

**WHEREAS**, on December 16, 2004 the Debtors filed amended Schedules (Doc. I.D. No. 18) including an amended “Schedule F - Creditors Holding Unsecured Nonpriority Claims” listing as (potential) creditors for the first time Jennifer Mudd and Michael Mizzone (collectively, the “Creditors”);

**WHEREAS**, the Motion seeks to extend the Bar Date to permit the Creditors to timely file a Complaint. The Motion alleges that the Creditors first alleged a (disputed) claim against the Debtors well after the Bar Date and that, until December 6, 2004, “the [D]ebtors had no notion that . . . [the Creditors] were potential creditors of the [D]ebtors,” (Motion ¶ 8);<sup>2</sup>

**WHEREAS**, the court finds that the Debtors’ failure to schedule the Creditors prior to the Bar Date was an innocent and faultless omission on their part;

**WHEREAS**, the court finds and/or concludes that this case is not factually different to any material degree from the case adjudicated in *In re Bachman*, 296 B.R. 596, 601 (Bankr. D. Conn. 2003) (“[T]he Debtor’s failure to schedule the Avery Claim was a ‘simple, faultless omission’ . . . .”);

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<sup>1</sup> Any such complaint or objection is referred to below as a “Complaint.”

<sup>2</sup> At the court’s request, the Debtors filed an affidavit (Doc. I.D. No. 26, the “Affidavit”) in support of the Motion. For the purposes of the instant adjudication of the Motion, the court accepts the averments of the Affidavit as true.

**WHEREAS**, in *Bachman* this court held that

‘faultless omission’ is within the purview of ‘excusable neglect.’ . . . Accordingly, . . . the *Benedict* doctrine cannot serve as a basis to extend the Specific Bar Date with respect to the Avery claim.

*Bachman*, 296 B.R. at 601;

**WHEREAS**, neither the Motion nor the Affidavit otherwise state waiver, estoppel or equitable tolling. *Cf. Bachman*, 296 B.R. at 600;

**NOW, THEREFORE**, in accordance with Rules 4007(c) and 9006(b) of the Federal Rules of Bankruptcy Procedure, it is hereby **ORDERED** that the Motion is denied.

BY THE COURT

DATED: May 25, 2005

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Lorraine Murphy Weil  
United States Bankruptcy Judge